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contribution. His constitutional history is literary—not to say journalistic. He has relied on the works of Robertson, Skene and Innes, drawing freely, for analogies—which he sometimes regards as proof—upon the writings of Bishop Stubbs and Professor Maitland. These authorities, unfortunately, he has not always read with care. He is capable, for example, of likening Celtic tribal land held in common ownership to the Anglo-Saxon *folcland* of Kemble's dreams (p. 82), although Vinogradoff's teaching has reached him through Maitland (p. 86). Again he writes of peers of the realm in the eleventh century (p. 94) and of "the important statute *de tallagio non concedendo*" (p. 185). On the intricate question of boroughs (p. 145 and App. D.) an amateur is less to be blamed for going wrong, but if Mr. Lang had consulted Professor Maitland's *Township and Borough* he would have seen that the views advanced in *Domesday Book and Beyond* have not passed unquestioned. An understanding of the nature of tallage would have resolved the difficulty raised (p. 147) by the burghal contribution to the ransom of William the Lion. This lack of training is further betrayed in the application of the title of Dauphin to the heir of Philip Augustus (p. 119), and in the ingenuous belief implied on page 253 that the *Lex Salica* provides that women shall not succeed to the crown of France.

A few misprints have also been remarked. *Henry II.* for *Henry I.* (p. 128), *Carlaverock* for *Caerlaverock* (pp. xxi, 189), *Lorraine* for *Lorraine* (p. 308).

On the whole one fails to understand why, with Mr. Hume Brown's excellent work already in the field, the present book should have been put forth.

GAILLARD THOMAS LAPSLEY.

The County Palatine of Durham. A Study in Constitutional History.

By GAILLARD THOMAS LAPSLEY, Ph.D. (New York and London: Longmans, Green and Co. 1900. Pp. xii, 380.)

THE author well calls his book A Study; each chapter is a particular study of its field. It is only as a series of studies that so much of detail as constantly appears can find justification. Investigation in detail is of course the sort of work expected in the Harvard Historical Studies, to which the subject of this review belongs. Had the work been published as a history, it would have been open, on this point, to obvious criticism, which the author's modesty and good sense have disarmed. The distinction is worth drawing and emphasizing, and Dr. Lapsley deserves thanks for observing it and so helping it on.

But this praise must itself be seasoned with criticism. Surely there is a distinction between the work of the antiquary and that of the student of constitutional history. The pursuit of details as such is not the work of the latter; and one would not have to go far to feel that the author has sometimes lost his place. The origin of the Durham palatinate in the darkness of pre-Norman England has possibly some value in consti-

tutional history ; but to spend almost the best part of the book, the first thirty pages, in wandering about for what only the antiquary would sufficiently value when found, might tempt one to cast aside a first-rate piece of work. Five pages should have been enough.

Let us have done with criticism at once. How could the author devote these thirty pages to the Origin of the Palatinate, and, without a helpful syllable, dismiss a court of the Law Merchant, which he finds in Durham in full operation? "A court of pie-powder was held in the fairs and markets belonging to the bishop;" but that and other small courts "present no peculiar features." The author is nodding; one so learned in legal history must know that the smallest word unearthed about these courts of the merchants is worth tons of suggestions and guesses, or even of records, in regard to the origin of the Durham palatinate. Thence came (transplanted from the Continent) the body of that most potent influence in English and American life, our *lex mercatoria*. Will not Dr. Lapsley tell us something about the pie-powder courts of Durham, as well as about the Council of the North?

For another thing, we cannot but wonder why the author should stop, as he does several times, to justify his method. An author is entitled to his own method; the only justification called for is its fruits. On that justification Dr. Lapsley might safely have rested, quite as safely as by challenging the reader to consider his method. Again, the author is apt to discredit his reader's intelligence; as where, after giving (p. 234) two reasons for a certain thing, which tell their own story, he comments thus: "The first is a matter of expediency, the second a matter of sentiment."

We had noted other things for criticism, but we gladly brush them away, with all that we have said, as only the small dust in the balance. The merits of the work before us are conspicuous, its defects of the slightest in comparison. The idea of making the Durham palatinate a special study was a happy one; but for some other workers we might call it an inspiration. It was worth doing, and has been well done.

The scope of the work is comprehensive, and the plan is so well carried out that Lapsley's *Durham Palatinate* must long stand as the final work on the subject. What it contains may be briefly shown.

After the first chapter, on origins, we have a careful study on The Bishop as Lord Palatine. Here the author treats of the Bishop's regality, under powers *in imperio, in dominio, and in jurisdictione*; a not very illuminating set of titles, though the author assures us that it "has in compensation the great advantage of clearness." Under the first designation the Bishop appears as king of Durham; under the second, as feudal landlord; under the third, in relation to the law.

The second chapter treats of the less interesting subject of the Officers of the Palatinate; under which we find Officers of State and Officers of the Household fully dealt with.

A valuable chapter follows on The Assembly and the Bishop's Council, which all students of our own colonial history will read with pleasure

and profit. We have in this connection, first, the Development of the Assembly, then the Composition and Functions of that body; following which we have a like treatment of the Council, and other matters of interest pertaining to that branch of the palatinate.

The fifth and sixth chapters are, for us, the best in the book. The fifth chapter opens indeed, like the book itself, with a vain thing, a too serious delay over the Development of the Judiciary from 635 until 1195; at which latter date, or a little before, under the reforms of Henry the Second, the subject really begins. From that time on the author easily carries the interested reader through a long category of courts, until he reaches the pie-powder tribunals—of which no more. The Transition from a Feudal to a Royal Court is well told. The sixth chapter treats of the Palatine Courts in relation to the Royal Judiciary, and leaves nothing to be desired; a surprise to a lawyer, because the author himself does not profess to be a man of law. Here will be found all the details of judicial procedure, much of it extremely technical, and all of it, so far as we have observed, accurate. It is curious, by the way, that the author missed the chance, on page 218, of remarks on foreign attachment. "It is questionable," says Dr. Lapsley, "whether the bishop could have been put to exigent or outlawed on such proceedings," proceedings in the nature of foreign attachment. Could a citizen of Massachusetts be proceeded against personally, on attachment of lands of his in New York, without service of process on him? Chapter VI. closes with some useful remarks in regard to the Council of the North and the Palatine Judiciary, a subject of which the author has since shown himself a master. Here the author accordingly deals with what theologians, in another way, call last things. He is speaking of a plea of land in the palatinate drawn in 1547 into the (royal) Council, and closes with a passage which we must quote. "This tells the whole story. In the administration of law the palatinate has become a negligible quantity. It is not destroyed or swept away; that would have been inconsistent with the genius of the English race, which is before all things conservative of appearances; but the life that was in it has gone. . . . The living organism with which we were concerned has become a heap of dry bones."

The final chapters deal with Financial, and Military and Naval, Arrangements in the Palatinate. Several appendices of considerable value follow, the last one a full bibliography.

We have read this book with genuine satisfaction. The Torrey Fund, which is responsible for the publication of it, has borne no better fruit.

MELVILLE MADISON BIGELOW.

The History of Edward the Third (1327-1377). By JAMES MACKINNON, Ph.D. (London, New York and Bombay: Longmans, Green and Co. 1900. Pp. xx, 624.)

DR. MACKINNON'S book is based on laborious and independent investigation of sources. No phase of the reign is entirely neglected, but